

PRISON LITIGATION REFORM ACT OF 1995

Pursuant to the Prison Litigation Reform Act of 1995, new requirements have been placed on prisoners proceeding pro se when filing civil actions and appeals in Federal courts. Three of the most significant restrictions relate to the exhaustion of administrative remedies, filing *in forma pauperis*, and filing successive claims.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

No action shall be brought with respect to prison conditions under Section 1979 of the revised Statutes of the United States (42 USC § 1983), or any other Federal law, by a prisoner confined in any jail, prison or other correctional facility until such administrative remedies as are available are exhausted. Therefore, your complaint must include information regarding whether you exhausted the administrative remedies available to you, and if not, why not.

PROCEEDING IN FORMA PAUPERIS

The amendment to 28 USC § 1915 now requires a prisoner to pay the appropriate filing fee (\$100 for a petition for review from an agency decision or an original action or \$105 for an appeal from the district court) when bringing a civil action or filing an appeal *in forma pauperis* (IFP). If, however, insufficient funds exist in your prison account, the court must assess and, when funds exist, collect a partial filing fee of 20% of the greater of:

- (1) the average monthly deposits to your prison account, or
- (2) the average monthly balance in your prison account for the prior six-month period.

Thereafter, you are required to make monthly payments of 20% of the preceding month's income. The agency having custody of your account is required to forward payments from your account to the clerk of the court each time the amount in your account exceeds \$10.00 until the filing fees are paid.

If you are attempting to proceed *in forma pauperis*, you must submit a certified copy of the trust fund account statement for the prior six-month period and the consent to collection of fees form, along with the completed *in forma pauperis* application.

As a result of the change to 28 USC § 1915, you may be required to pay the appropriate filing fee (\$100 for a petition for review from an agency decision or an original action or \$105 for an appeal from the district court) in full, even if the complaint is dismissed prior to the collection of the entire filing fee.

SUCCESSIVE CLAIMS

Pursuant to the Prison Litigation Reform Act of 1995, unless a prisoner claims to be in “imminent danger of serious physical injury,” he or she may not file a civil action or pursue a civil appeal *in forma pauperis* “if the prisoner has, on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or failed to state a claim upon which relief may be granted.”